

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
NO: 5:13-CV-00644-BR

WILLIAM BRUCE HOWERTON JR.,

Plaintiff,

v.

CORBIN PACIFIC, INC.,  
CHECK CORPORATION,

Defendants.

ORDER

This matter is before the court on plaintiff's motion to remand. (DE # 10.) Defendant Check Corporation filed a response to the motion, stating that it does not contest remand. (DE # 18.) Defendant Corbin Pacific, Inc. did not file a response to the motion.<sup>1</sup> For the reasons stated in the memorandum in support, the motion to remand is ALLOWED, and this case is hereby REMANDED to Wake County Superior Court. The Clerk is DIRECTED to send a copy of this order to the Clerk of that court and to close this case.

This 13 November 2013.



W. Earl Britt  
Senior U.S. District Judge

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<sup>1</sup>On 4 October 2013, defendant Corbin Pacific, Inc. filed an amended answer to the amended complaint, indicating that it consented to defendant Check Corporation's removal of this action to this court. (DE # 14, at 19.) However, by that time, its time to join in or consent to the removal had expired, and therefore, such consent was ineffective. See Moore v. Svehlak, Civil Action No. ELH-2727, 2013 WL 3683838, at \*14 (D. Md. July 11, 2013) ("In light of the current statute's affirmative statement that '[e]ach defendant shall have 30 days' in which to make a removal decision; in light of [Barbour v. Int'l Union, 640 F.3d 599 (4th Cir. 2011) (en banc),] and [McKinney v. Bd. of Trs. of Md. Cmty. Coll., 955 F.2d 924 (4th Cir. 1992)]; and given the statute's statement that an earlier-served defendant may 'consent' to a notice of removal, it is reasonable to interpret the statute as plaintiffs do: '[A]ny defendant properly joined and served prior to the Notice of Removal would have to join in or consent to the Notice of Removal at [the] later of (1) when it is filed; or (2) 30 days after the defendant was served with the Summons and Complaint.'" (citation omitted) (most alterations in original)).